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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

VIDEO SOFTWARE DEALERS and
ENTERTAINMENT SOFTWARE
ASSOCIATION,

Plaintiffs,

v.

ARNOLD SCHWARZENEGGER, in his
official capacity as Governor of the State of
California; BILL LOCKYER, in his official
capacity as Attorney General of the State of
California; GEORGE KENNEDY, in his
official capacity as Santa Clara County
District Attorney; RICHARD DOYLE, in his
official capacity as City Attorney for the City
of San Jose, and ANN MILLER RAVEL, in
her official capacity as County Counsel for
the County of Santa Clara.

Defendants.

No. C 05 4188 RMW RS

**BRIEF OF AMICUS CURIAE
COMMON SENSE MEDIA IN
OPPOSITION TO PLAINTIFFS'
MOTION FOR SUMMARY
JUDGMENT**

Date: May 12, 2006
Time: 9:00 a.m.
Courtroom: 6
Before the Honorable Ronald M. Whyte

Case No. C 05 4188 RMW RS

Brief of Amicus Curiae Common Sense Media In Opposition to Plaintiffs' MSJ

1 Amicus curiae Common Sense Media (“Common Sense”) submits this brief in
2 opposition to the motion for summary judgment by plaintiffs Video Software Dealers Association
3 and Entertainment Software Association (“Plaintiffs’ SJM”).

4 **I. INTRODUCTION**

5 Mindful of the Court’s request that Common Sense refrain from duplicating
6 arguments made by defendants in their papers, Common Sense has limited its submission to
7 addressing a single argument made by plaintiffs: the assertion that the State, in enacting the
8 statute at issue here, relied on evidence that was merely a one-sided, biased “subset” of all of the
9 available research that has been performed with respect to the effects of playing violent video
10 games on children. See Plaintiffs’ SJM at page 14. The plaintiffs are flatly wrong. As
11 demonstrated by the accompanying declarations of six experts, two of whom who have reviewed
12 virtually all of the research to date on this topic, the evidence on which the legislature relied in
13 enacting AB 1179 was and is entirely consistent with the current and full body of knowledge.
14 That research demonstrates that these games are indeed harmful to children. Indeed, newer and
15 more sophisticated studies performed since the law’s enactment have further validated the
16 legislature’s finding. Plaintiffs’ characterization of the State’s evidence as biased, one-sided, or
17 incomplete is false.

18 To further aid the court, Common Sense has also produced an updated 10-minute
19 montage of representative scenes from several “ultra violent” video games. The accompanying
20 declaration of Jay Senter explains how this montage was prepared.

21 **II. FACTS**

22 Common Sense has obtained declarations from six leading experts. Three are
23 PhDs and three are medical doctors who also possess masters’ degrees in Public Health. Each
24 expert’s testimony is summarized below. The court should be particularly interested in the work
25 of two of the medical doctors, Dr. Cary Gross and Dr. Michael Rich. Dr. Gross and Dr. Rich have
26 each supervised separate extensive and sophisticated reviews of very large (190 and 240,
27 respectively) collections of research studies. The reviews of both Dr. Gross and Dr. Rich have
28 led them each to conclude that the negative effects of violent video game play on children are

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1 unmistakable and well supported by current research.

2 Brad Bushman, Ph.D., has published 12 journal articles on media violence, three
3 of which focus particularly on video game violence. Dr. Bushman's most recent work found that
4 violent video game players do not show the normal brain patterns (measured by EEG) that are
5 associated with aversion and disgust in response to violence. This study also showed that the lack
6 of a normal aversion reaction is correlated with engaging in aggressive acts: the participants who
7 were lacking in aversion reaction were found to engage in more aggressive acts. See Declaration
8 of Brad J. Bushman ("Bushman Decl."), paragraphs 8 and 9. The data obtained in this work
9 demonstrates a link between exposure to violent video games and interference with normal brain
10 function.

11 Dr. Bushman has also published the results of research showing that even brief
12 violent video game results in skewing the perceptions of players as to the aggressiveness of other
13 people. *Id.*, paragraphs 12 and 13. Lastly, Dr. Bushman published an article examining 35
14 individual studies on the effects of playing violent video games, and found that these studies
15 showed that on average, violent video games increase aggressive thoughts, feelings and
16 behaviors. *Id.*, paragraphs 15 and 16. Based on this work, Dr. Bushman concludes that
17 "exposure to violent video games poses a public health threat to children." *Id.*, paragraph 17.

18 Similarly, Ute Ritterfeld, Ph.D., has published a recent article concerning a study
19 in which participants were observed playing a violent video game and their brain activity was
20 measured. During violent play, brain patterns known to be linked to aggression were recorded.
21 See Declaration of Ute Ritterfeld, paragraph 5. Because of dopamine is released during video
22 game play, which enhances learning and reinforcement of behavior, Dr. Ritterfeld concludes that
23 the short-term effects measured in this study give reason for concern as to longer-term effects.
24 *Id.*, paragraph 6.

25 Thomas Robinson, M.D., M.P.H., who is an associate professor of pediatrics at
26 Stanford, co-authored a study which also supported a causation link between violent videogames
27 and aggression in children, by showing that a *reduction* in exposure to such material reduces
28 aggressive behavior.

1 Sonya Brady, Ph.D., is a postdoctoral fellow at the University of California, San
2 Francisco, who published this month an article discussing a study in which players of “Grand
3 Theft Auto III” exhibited various negative health effects.

4 Cary Gross, M.D., a professor at Yale University School of Medicine, is part of a
5 research team that is evaluating six systematic reviews that summarize the effect of media
6 exposure on violent behavior in children and adolescents. Taken together, the reviews analyzed
7 by Dr. Gross’s team include the analysis of close to 250 articles: i.e., virtually the universe of
8 available research. Declaration of Cary P. Gross, M.D. (“Gross Decl.”), paragraph 5. Five of the
9 six systematic reviews conclude that there is a valid correlation between exposure to media
10 violence and aggressive behavior. *Id.* Dr. Gross’s preliminary analysis of the reviews, using a
11 widely accepted and validated approach, causes him to conclude that the reviews are sound and
12 that the medical literature, in general, supports a strong association between violent video games
13 and aggressive behavior. *Id.*, paragraph 6. The breadth and scope of Dr. Gross’s work is
14 particularly supportive of the accuracy of the legislature’s findings in enacting AB 1179.

15 Michael O. Rich, M.D., M.P.H., is a professor at the Harvard School of Public
16 Health and the founder of the Center on Media and Child Health (the “CMCH”) in Boston. The
17 CMCH has established a multi-disciplinary and collaborative research group to conduct original
18 research and analyze existing research on the effects – both positive and negative -- of media
19 exposure on children’s health. Declaration of Michael Ogden Rich (“Rich Decl.”), paragraph 4.
20 Dr. Rich, before pursuing his medical career, was a professional filmmaker, and cannot be
21 accused of an anti-media bias; indeed, much of his work has focused on the benefits that video in
22 particular can have on patient health. See Exhibit A to Rich Decl.

23 Under Dr. Rich’s direction, the CMCH has reviewed nearly 200 research studies
24 published from 1982 to 2006 on the effects of violent video game play on users. Rich Decl.,
25 paragraph 6. The CMCH has prepared a comprehensive summary of the research and its
26 conclusions. Rich Decl., Exhibit C. Dr. Rich has concluded that recent, more sophisticated meta-
27 analysis demonstrates a strong “effect size” of violent video game play on aggressive behavior.
28 It is his opinion that the association between violent video game play and aggressive behavior is

1 stronger than even the correlation between lead exposure and reduced IQ in children. Id. Further,
2 in testimony Dr. Rich gave before the Illinois House Judicial Committee in March of last year,
3 explains why research shows increase aggressiveness with increased exposure to violent video
4 games: the brain center that is activated during violent game play is the same area in which long-
5 term memory encoding occurs. Rich Decl., Exhibit B. The work of CMCH also supports the
6 reliability of the evidence considered by the legislature in passing AB 1179.

7 **III. CONCLUSION**

8 The evidence considered by the Legislature in passing AB 1179, which showed
9 that playing violent video games can cause harm to children, is entirely consistent with the
10 current general body of knowledge on this issue. That evidence is and was substantial, and
11 further, it has been validated by subsequent research. In particular, it is supported by wide-
12 ranging reviews of virtually all of the research in this area, which reviews were supervised by
13 renowned experts of unimpeachable integrity. The State's interest in preventing harm to minors
14 was and is amply supported by prevailing scientific knowledge.

15 Dated: April 19, 2006

Respectfully submitted,

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19
20 By /s/Francine T. Radford
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